

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

FRANCES FENTNER,

Plaintiff,

v.

ORDER
07-CV-561A

TEMPEST RECOVERY SERVICES, INC.,

Defendant.

The above-referenced case was referred to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. § 636(b)(1)(B). On August 12, 2008, Magistrate Judge Scott filed a Report and Recommendation, recommending that plaintiff's motion to dismiss the defendant's counterclaim be granted.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, plaintiff's motion to dismiss the defendant's counterclaim is granted.

The case is referred back to Magistrate Judge Scott for further proceedings.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: September 2, 2008